

Mariposa County Pesticide Use Enforcement Program

Work Plan for FY 2007/2008

Mission Statement:

To promote the safe use of pesticides in Mariposa County by regulating their use to protect workers, the public's health and safety, and the environment.

Pesticide Use Enforcement Program Description

PERSONNEL and RESOURCES

Staffing

- 1 Agricultural Commissioner/Sealer
- 1 Clerical Staff part time (0.5 staff year)

Number of Full Time Equivalent (FTE) Staff Dedicated to Pesticide Use Enforcement (PUE) per Year (includes management, supervision, inspector, technician and clerical hours)

- Historical
 - 1.0 FTE/Year
- Projections
 - 05/06 1.0 FTE/Year
 - 06/07 2.0 FTE/Year
 - 07/08 1.0 FTE/Year

Assets

- All personnel have vehicles available for their use.
- All personnel have a computer workstation at their desk.
- A dedicated permit computer and printer.

PERMIT ISSUANCE ANNUAL WORKLOAD ANALYSIS

Permit Issuance Statistics

- Average number of Restricted Materials Permits - 11 permits
- Private Applicators Certified - 5
- Average number of Operator Identification Numbers (OINs) - 43 OINs
- Notices of Intent (NOIs) - 5 NOIs
- Registrants
 - # Pest Control Advisors - 12
 - # Pest Control Businesses - 20
 - # Pilots - 1
 - # Farm Labor Contractors - 0
 - # Structural Pest Control Operators -32

Local Conditions

- Significant Crops Grown:
 - Livestock, wine grapes, tree crops (almonds & olives), and rangeland
- Sensitive Sites:
 - Areas adjacent to federal lands (USFS, NPS)
 - Locations at the Ag/Urban interface
 - Water ways (dependent on aquatic toxicity of pesticides)
 - Endangered Species Habitat
- Workload Trends - We expect the workload in permit issuance to remain static or decrease for the following reasons:
 - Decreased use of pesticides, particularly restricted use materials, by agricultural producers
 - Increased regulations for ground and surface water protection, particularly ag waivers on irrigated lands
 - Decreased number of agricultural producers, in general, due to urbanization of rural areas
 - Increased number of crops grown without pesticides, with reduced pesticide use, or organic/sustainable agriculture

A. RESTRICTED MATERIALS PERMITS:

Permit Evaluation:

- Approximately 11 restricted materials permits are issued annually
- Majority of permits are issued for phenoxy herbicides for poison oak/brush control, and strychnine and zinc phosphide for vertebrate pest control
- Permits are only approved and issued by one licensed and trained staff:
 - Agricultural Commissioner issues 100% of permits
- Permittee required to pass private or qualified applicator certification exam
- County administers private applicator certification exam on an individual basis by appointment
- Testing takes approximately one to one and a half hours
- Permit issuance takes approximately one hour
- Permits are entered into the Restricted Materials Permit Program (RMPP) and printed out for signature
- Permits are issued to the operator of the property or authorized representative (either an employee, farm management firm, or PCA)

- Letter of authorization is required for issuance or signature of other than the operator of the property
- Permits are valid for one year, expiring at the end of the calendar year (December 31st) in which they are issued
- All agricultural permits are site specific and maps are required
- Sites are identified by a 4-digit, alpha-numeric system, typically the letters identifying permittee(s) and numbers identified with a location on the map
- Site Evaluation Process - Inspectors that issue permits are familiar with local areas and conditions and may also visit sites, depending on level of pesticide hazard and the sensitivity of the proposed site. This approach allows for consistent customer service, familiarity with potential hazards, and knowledge of established agricultural practices within the county.
- Hazard Evaluation Process - Review of sensitive sites, endangered species areas (PRESCRIBEs), use site locations, and the hazard (or potential) identified. Again, the familiarity with the county, agricultural practices, and the applicators are a major part of the evaluation process.
- Handouts reviewed with permittee at time of issuance:
 - Mariposa County pesticide use requirements and conditions
 - Notice of intent form and instructions
 - Application specific information requirements
 - Pesticide Use Report (PUR) form and instructions
 - Pesticide Use Compliance Guide for Employers and Businesses
 - California restricted materials list
 - PSIS A or N
 - Irrigated Lands Waiver information
- Permit/certification renewals usually occur December – March, depending on the commodity
- Two continuing education (CE) training seminars per year are scheduled
- For renewals, prior year permit files are reviewed for PURs and inspections to determine any problem areas.
- Approximately 5 NOIs are received each year
- 24 hour NOIs are required
- NOIs are accepted by telephone, fax, or in person and are monitored between 8 am -5 pm, Monday -Friday
- After hours, the NOIs are picked up by answering machine. No NOIs are picked up by staff on weekend

Strengths

- Staff experience and knowledge of local conditions helps to reduce substantial adverse environmental impacts
- Historically, there have been few to no instances of permit denials due to potential adverse environmental impacts
- Issuance of annual permits allows for regular review of permits, reducing chances for potential adverse impacts
- Specific permit conditions are required for several types of restricted materials used
- Dedicated office computer for issuing permits/OINs using the State RMPP program

Weaknesses

- Some current maps are hand drawn and not to scale
- Some permits include pesticides that have not been used in many years but are kept on the permit for potential future use

- Many NOIs are not submitted 24 hours prior to application, making it difficult to conduct review of NOI prior to application

Goals

- Assure that the evaluation process for restricted materials permit applications and NOIs is complete and thorough, taking into consideration all aspects of risk assessment through the use of updates and improvements to permit information necessary to make sound determinations on adverse effects

Deliverables

- Current RMPP program will be upgraded to AgGIS system in 2008
- Improvements in the future include the additional of GIS software and other mapping resources and hardware. To be initiated in 2007/2008 and completed in 2008/2009.
- Update all existing restricted material maps with new field digitized GIS sites to assist inaccuracy when evaluating permits for adverse environmental and health effects. (2009 permit season)
- Review county GIS parcel data prior to issuing new restricted material permits to assess potential adverse effects. (2009 permit season)
- Review permits that have restricted materials that have not been used for the past 5 years and work with permittee to eliminate such pesticides. Initiated and implemented in 2007 permit season.
- Use the pesticide pre-application site inspection, compliance actions, and NOI denials to increase compliance with 24-hour NOI permit requirement. (2008 permit season)

Evaluation

- End of 2008/2009, review an restricted material permit files for the following:
 - Site specific GIS maps
 - Elimination of pesticides not used for the last 5 years
- Identify number of permits lacking corrections
- Review improvement in number of 24 hour NOI submittals

Site Monitoring Plan Development

- Approximately 46 annual sites
- Majority of NOIs are for the following restricted materials/commodities:
 - Phenoxy herbicides for forest, primarily brush and poison oak control
 - Zinc phosphide for range/forage crops
 - Aluminum phosphide and strychnine for wine grapes
 - Vikane for structural fumigations, less than 2 per year
- NOIs are reviewed by licensed staff -- Agricultural Commissioner
- Sites to evaluated are based on:
 - Hazard of pesticide use by commodity
 - Aerial applications
 - Applications near roads and residences
 - Environmental conditions
 - Employee handlers
 - Compliance histories
- Pre-application site inspections are performed on at least 5% of NOIs submitted

Strengths

- Staff with many years of experience in county with knowledge of local conditions
- Few types of restricted materials used on a few commodities
- Minimal changes to adjacent environments of sites to be monitored

Weaknesses

- Lack of review of recommendations to assist in assessment of notice of intent primarily with regard to pesticide labeling, rates, and commodities

Goals

- Assure that site monitoring for restricted material use is effective, preventative, and comprehensive, taking into consideration the following risk factors:
 - Pesticide hazards associated with phenoxy herbicides, aluminum phosphide, strychnine, and zinc phosphide
 - Local conditions - particularly ag/urban interface areas
 - Compliance histories

Deliverables

- Pre-application site inspections will be performed on a minimum of 5% of the notices of intent. (2008 permit season)
- Requests for recommendations will be increased to better evaluate risks associated with proposed applications. (2008 permit season)

Evaluation

- End of 2008/2009 review of Pesticide Regulatory Activities Monthly Report (PRAMR) to determine if required 5% pre-application site inspections were performed
- End of 2008/2009 review
 - Increase in number of recommendations received and reviewed
 - Decrease in potential or actual risks

B. COMPLIANCE MONITORING:

Targeted Field Inspections

- Sensitive and High Profile Sites
- Government operations & applications
- Structural PCOs
- Applicators with a History of Compliance Problems

Comprehensive Inspection Plan

- Inspections are performed by licensed and trained staff
 - Agricultural Commissioner - 25% of job duties
- Inspections are performed Mondays –Fridays
- Targeted inspections are prioritized by:
 - Applicator compliance history
 - Employee handlers
 - Type of application site and pesticide used
- Majority of scheduled application inspections are concentrated on weed control applications, applications on public property, and structural pest control applications

- 07/08 Focus to Improve Monitoring of Field Activities
 - In FY 06/07 we conducted a thorough evaluation of the workload based on our current customer base and potential hazards to the public and to the environment.
 - Focus on government and commercial applicators on public lands - particularly with regard to use of personal protective equipment (PPE) and compliance with the label

Strengths

- The size of the agricultural pesticide application areas and the experience of the pesticide enforcement staff allows for familiarity with pesticide usage, applicators, and commodity applications in the county.
- A targeted inspection plan that addresses the following components:
 - Violation history
 - Potential for Worker Health and Safety (WHS) violations
 - Employee handler applications
 - Types of restricted materials applied
- The frequency of headquarters inspections is currently every 2 - 3 years depending on the level of non-compliances. This schedule will allow for effective identification and enforcement action of non-compliances.
- Low level of pesticide-related incidents, reducing the need for non-targeted compliance driven
- Use of the Automatic Inspection Reporting System (AIRS) to be implemented in 2007/2008 year for inspections

Weaknesses

- Monitoring currently as resources allow due to current workload and availability of trained personnel to conduct inspections
- Small staff, whose duties include other county programs, limits availability for weekend or night time inspections
- Low number of follow-up inspections due to lack of staff availability

Goals

- Assure that compliance monitoring is effective and comprehensive, ensuring the safety of pesticide handlers, field workers, the public, and the environment through the use of an inspection strategy that has a measurable effect on compliance improvement

Deliverables

- Maintain frequency of inspections for headquarters
- Maintain targeted inspections for situations where violations have occurred in the past or have potential to occur
- Increase targeted inspections when necessary for repeat violations. (2007/2008)

Evaluation

- Review PRAMR to determine if there has been a decrease in the number of pesticide use and records inspections for targeted components (2008)
- Review non-compliances resulting from targeted inspections (2007)
- Review effectiveness of the AIRS implementation and improvement in inspection efficiency

Investigation Response and Reporting

- FY 06/07
 - 1 Investigation, 1 Complaint Report
- We will continue to investigate all pesticide complaints and prepare a report for the record.
- We will continue to maintain a pesticide complaint/investigation log
- Current Investigation Trends:
 - We have few pesticide complaints annually and those generally take place in the agriculture/urban interface or on federal property. Some complainants want to know what is being sprayed on the right-of-ways or they complain about odor.

Our investigations are generally complaints of human exposure by anti-microbials.

- Pesticide-related investigations are conducted by trained staff:
 - Agricultural Commissioner - responsible for 100% of investigations
- Investigations and complaints are received by the pesticide enforcement staff
- All complaints or incidents that may be related to pesticides receive a response and results are documented on complaint forms or investigative reports
- All investigation and complaint reports are reviewed and approved by the Agricultural Commissioner, once complete
- In the last two fiscal years, there were 2 investigation/complaints
- Type of investigation and the time it took to complete:
 - One non-priority investigation was initiated within one week and completed within two months
- All of the investigation reports were complete and none were returned for lack of additional information or supporting documentation

Strengths

- Routing of the investigation/complaint goes directly to the Agricultural Commissioner. Without any intermediate personnel, the reports are processed in a timely manner.
- Low number of investigations and complaints received by the county allows for the ability to respond and complete investigations and reports in a timely manner
- Staff keep current with investigative training

Weaknesses

- No areas of investigation response or reporting were identified as needing improvement based on the last two fiscal year DPR Effectiveness Evaluations

Goals

- Maintain implementation strategy of current investigative response with regard to timely initiation and completion of all priority and non-priority investigations
- Maintain implementation strategy of current investigative response with regard to use of existing violation analysis and high quality in investigative thoroughness and report accuracy

Deliverables

- Timely episode investigation initiation and completion
- Investigation reports are accurate and complete

Evaluation

- Review the number of returned/incomplete investigation reports

- Review reversed decisions by appeals due to lack of supporting information

C. ENFORCEMENT RESPONSE:

Current Year Projections

- Compliance Actions - 4 Warning Letters & Notice of Violations (NOVs) (for late PURs), 2 NOPAs

07/08 Focus to Improve Enforcement Response

We will also continue to consider other enforcement options including denying restricted materials permits, licensee registrations, NOP As, or involving the County District Attorney for the more egregious cases. Historically, Mariposa County has had a relatively compliant agricultural industry and the types of violations have not been of the magnitude reported in other parts of California.

Enforcement Response Evaluation

- All actions are discussed with the Agricultural Commissioner prior to implementation (with the exception of violation notices checked off at the time of inspections on inspection forms)
- Compliance actions are prepared by trained staff
- Enforcement actions are prepared by trained staff
- All actions are reviewed and signed by the Agricultural Commissioner
- Decision trees in the DPR Enforcement Guidelines are followed to determine most appropriate action when violations are identified
- Pesticide use report violations receive warning letters and notice of violations
- For civil penalty actions, the fine guidelines will be followed
- If the action or fine deviates from the guidelines, a justification will be written into the action
- Nine (9) Decision Reports were written in FY 06/07
- All NOPAs will provide respondents with detailed information on alleged violations, proposed fine level, and their right for an opportunity to be heard
- Copies of inspection reports and actions are maintained in RMPP, OID, or business files

Strengths

- Limited chain of command within our office allows for timely review and approval of actions
- Maintaining copies of reports and actions within individual files allows for review of violator's history and selection of most appropriate action for the violation
- Use of enforcement actions as tools to improve compliance

Weaknesses

- Lack of written non-compliance enforcement action plan with specificity for type of violations that routinely occur
- Lack of consistency in compliance and enforcement actions for minor violations, primarily paperwork violations
- Lack of staff availability for timely follow-up inspection activity

Goals

- Provide a swift, consistent, and fair response to non-compliances that results in future compliance by the respondent, while working to maintain the respect of the regulated industry as well as maintaining the integrity of our office

Deliverables

- Develop an enforcement plan that takes into consideration the violation activities specific to Mariposa County. (2008)

Evaluation

- Review of individual RMPP, OIN, and business files to verify decrease in repeat non-compliances by violators resulting from new compliance and enforcement plan. (2007)
- Review of enforcement response to determine if effort was directed at violations that post the greatest risk to people or the environment (2007)

D. STAFF TRAINING:

- 07/08 Focus to Improve Staff Training
 - In 07/08, we will evaluate our training process and develop training methods, including PUB core program elements, access to training modules, and DPR /Structural workshops.
 - Better utilize DPR staff and resources in the staff training process.